

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CHRISTOPHER MICHAEL HALE,

Plaintiff,

v.

No. 11-cv-0128 RB/SMV

**JESSICA VIGIL, Lieutenant,
DAVID N. Eastridge,, Corrections Officer,
PHIL ARAGON, Captain,
ISAAC GUERRA, Captain,
TOM PERRY, Sergeant,
TOMMY ARCHULETA, Corrections Officer,
ROBERT FELIX, Corrections Officer,
RUSSELL HONEA, Corrections Officer,
SAMUEL CHRISTIE, Corrections Officer, and
GREGORY MITCHELL, Captain,**

Defendants.¹

**ORDER FOR PLAINTIFF TO FILE AN IN FORMA PAUPERIS APPLICATION
OR PAY THE REMAINDER OF THE FILING FEE**

THIS MATTER is before the Court sua sponte. By order entered on February 14, 2011, the Honorable Don J. Svet, (now retired) United States Magistrate Judge, granted Plaintiff's Application to Proceed [In Forma Pauperis] [Doc. 2]. Order Granting Leave to Proceed Pursuant to 28 U.S.C. § 1915(b), and to Make Payments or Show Cause [Doc. 5] ("IFP Order"). Pursuant to the IFP Order, Plaintiff was directed to make monthly payments equal to 20% of his preceding month's income until the Court's filing fee (\$350) was paid in full.² *Id.* Throughout the pendency of this

¹ The Defendants' full names are culled from: Disclosure of Certain New Defendants' Names Pursuant to the Court's . . . Order [Doc. 145], and the *Martinez* Report [74-2] at 21, [74-5] at 14, and [74-7] at 6.

² At the time, Plaintiff was incarcerated and proceeding in forma pauperis pursuant to 28 U.S.C. § 1915(b), which specifies a fee payment plan for incarcerated litigants proceeding in forma pauperis.

action, Plaintiff has submitted partial payments towards the Court's filing fee. *See* [Docs. 14, 18, 27, 28, 32, 39, 40, 58, 103, and 121] (receipts docketed throughout pendency of this case). The receipts on the docket reflect that Plaintiff has paid a combined \$115.50 towards the Court's filing fee.

On September 14, 2012, Plaintiff filed a notice of change of address. [Doc. 143]. Because Plaintiff's notice of change of address indicates that he is no longer incarcerated, the Court will require him to file an amended IFP application. *See McGann v. Comm'r, Soc. Sec. Admin.*, 96 F.3d 28, 30 (2d Cir. 1996); *see also Scherer v. Kansas*, No. 07-3084, 263 F. App'x 667, 668-69 (10th Cir. Feb. 4, 2008) (unpublished) (noting that past decisions regarding a litigant's IFP status are not determinative of that litigant's present financial status). If Plaintiff chooses not to file an IFP application, he must pay the remainder of the Court's filing fee in full:

$$\$350 - \$115.50 = \textbf{\$234.50 remainder}.$$

Failure to comply with this Order may result in dismissal of Plaintiff's Complaint.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that within fourteen days from entry of this Order, Plaintiff must either submit an amended, properly completed IFP application, or pay \$234.50 towards his filing fee.

IT IS FURTHER ORDERED that the Clerk is directed to send Plaintiff a form IFP application.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge